Decision for dispute CAC-UDRP-103195

Case number	CAC-UDRP-103195
Time of filing	2020-07-28 09:51:37
Domain names	arcelormittal-pl.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	bangshangpacking.com

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns international trademark registration No 947686 ARCELORMITTAL, registered on 3 August 2007. The Complainant is further the owner of a domain name portfolio, including the domain <arcelormittal.com>, registered on 27 January 2006, which is connected to the official website of the Complainant.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries.

The Respondent registered the disputed domain name <arcelormittal-pl.com> on July 17, 2020.

The Complainant contends that the addition of the geographic abbreviation “PL” (for “Poland”) is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL. It does not change the

overall impression of the designation as being connected to the Complainant's trademark ARCELORMITTAL. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark.

On the contrary, the addition of the abbreviation "PL" worsens the likelihood of confusion between the disputed domain name and the Complainant's trademark ARCELORMITTAL as the Complainant is present in Poland.

Furthermore, the Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Consequently, the disputed domain name <arcelormittal-pl.com> is confusingly similar to Complainant's trademark ARCELORMITTAL.

The Complainant asserts that the Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ARCELORMITTAL, or apply for registration of the disputed domain name by the Complainant.

Besides, the website related to the disputed domain name is inactive. The Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark ARCELORMITTAL.

With 191,248 employees and 89.8 million tonnes crude steel made in 2019, the Complainant's trademark ARCELORMITTAL is widely known. Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in several cases.

Thus, given the distinctiveness of the Complainant's trademark and reputation, the Complainant is of the opinion that it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

Furthermore, the website related to the disputed domain name is currently inactive and MX servers are configured. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. Indeed, the disputed domain name is configured with MX records that allow it to be used to send e-mails that Internet users could well assume were sent by the Complainant.

Thus, Complainant contends that Respondent has registered the disputed domain name and is using it in bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or confusingly similar with Complainant’s trademark

The Panel finds that the disputed domain name <arcelormittal-pl.com> is confusingly similar to the Complainant's trade mark. The disputed domain name wholly incorporates the Complainant's registered trade mark. (See, for example, WIPO Case No D2003-0888, Dr Ing hc F Porsche AG -v- Vasiliy Terkin, in support of the argument that a domain name that wholly incorporates a complainant's trade mark may be sufficient to establish confusing similarity for the purposes of the UDRP). The Panel further accepts the Complainant's submission that the addition of the abbreviation "pl" (for Poland) does not change the overall impression of the designation as being connected with the Complainant's trade mark and may indeed add to the likelihood of confusion because the Complainant is present in Poland.

The .com domain zone shall be disregarded under the identity or the confusing similarity test as it does not add anything to the distinctiveness of the disputed domain name.

Therefore, the Panel finds that the first requirement of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Respondent did not respond.

When a respondent remains completely silent in the face of a prima facie case that it lacks any rights or legitimate interests in respect of a domain name, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. Here the Complainant has presented an abundance of evidence to show that the Respondent has no plausible right or legitimate interest in respect of the disputed domain name and the Panel so finds.

Therefore, the Panel finds that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists non-exhaustive circumstances indicating registration and use in bad faith.

These circumstances are non-exhaustive and other factors can also be considered in deciding whether the disputed domain name is registered and used in bad faith.

As stated by WIPO Overview 3.0 “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith” (see par. 3.1.4).

The ARCELORMITTAL mark is distinctive and well-known as confirmed by previous UDRP panels e.g. in the following cases:

- CAC Case No. 101908, ARCELORMITTAL v. China Capital ("The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known.");

- CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established."); and

-WIPO Case No. DCO2018-0005, ArcelorMittal SA v. Tina Campbell (“The Panel finds that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it.”).

The disputed domain name was registered more than ten years after the registration of the trademarks and the domain names of the Complainant and Complainant used it widely since then.

Consequently, given the distinctiveness of the Complainant's trademark and its reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

Furthermore, the website related to the disputed domain name is currently inactive and MX servers are configured. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law. Indeed, the disputed domain name is configured with MX records that allow it to be used to send e-mails that Internet users could well assume were sent by the Complainant.

The Panel agrees with Complainant.

Based on the above, the Panel holds that the third requirement of the Policy has been satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **ARCELORMITTAL-PL.COM**: Transferred

PANELLISTS

Name	**Jan Christian Schnedler, LL.M.**

DATE OF PANEL DECISION 2020-08-22

Publish the Decision